

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

New Boston Post Office
New Boston, Illinois

Docket No. A2012-38

ORDER AFFIRMING DETERMINATION

(Issued February 10, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 27, 2011, Lu Ann Krengle (Petitioner Krengle) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the New Boston, Illinois post office (New Boston post office).² An additional petition for review was received from Barbara O'Hearn (Petitioner O'Hearn).³ The Final Determination to close the New Boston post office is affirmed.

II. PROCEDURAL HISTORY

On November 2, 2011, the Commission established Docket No. A2012-38 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

Petitioners filed participant statements supporting their Petitions.⁷ On January 5, 2012, the Public Representative filed a reply brief.⁸ On January 10, 2012, Natalie Thompson also filed a letter opposing the New Boston post office closure.⁹

² Petition for Review received from Lu Ann Krengle regarding the New Boston, IL Post Office 61272, October 27, 2011 (Krengle Petition).

³ Petition for Review received from Barbara O'Hearn regarding the New Boston, IL Post Office 61272, October 28, 2011 (O'Hearn Petition).

⁴ Order No. 944, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 2, 2011. Certain dates in the procedural schedule were subsequently amended to correct errors. See, e.g., Notice of Errata, November 4, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 14, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Suspended New Boston, IL Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 21, 2011 (Postal Service Comments).

III. BACKGROUND

The New Boston post office provided retail postal services and service to 320 post office box or general delivery customers. Final Determination at 8. Three hundred eighty-four delivery customers were served through this office. *Id.* The New Boston post office, an EAS-13 level facility, is currently suspended due to failed lease negotiations. *Id.* at 2. Post office box customers, and customers picking up parcels and accountable mail have been moved to the Joy post office. Administrative Record, Item No. 3 at 1. Delivery and retail services have been provided by rural carrier to roadside mailboxes or cluster box units (CBUs). *Id.* Prior to its suspension, the New Boston post office provided retail service from 8:15 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 8:15 a.m. to 10:00 a.m. on Saturday. Administrative Record, Item No. 2 at 1. Lobby access hours are 6:30 a.m. to 6:30 p.m., Monday through Saturday. *Id.*

The postmaster position became vacant on November 30, 2009, when the New Boston postmaster retired. Final Determination at 2. An officer-in-charge (OIC) was installed to operate the office. Administrative Record, Item No. 15. The Postal Service was unable to conduct a window transaction survey before suspension. Final Determination at 7. Office receipts for the last three years, however, were \$54,557 in FY 2008; \$51,617 in FY 2009; and \$48,043 in FY 2010. *Id.* at 2. There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$26,700 annually. *Id.* at 7.

After the closure, retail services will continue to be provided by the Joy post office located approximately seven miles away.¹⁰ Delivery service will continue to be provided

⁷ Participant Statement received from Barbara O'Hearn, December 2, 2011 (O'Hearn Participant Statement); Participant Statement received from Lu Ann Krengle, December 7, 2011 (Krengle Participant Statement).

⁸ Public Representative Comments, January 5, 2012 (PR Comments).

⁹ Letter from Natalie Thompson, January 10, 2012 (Thompson Letter).

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the New Boston and Joy post offices to be approximately 7.4 miles (10 minutes driving time).

to CBUs through the Joy post office. *Id.* The Joy post office is an EAS-13 level office, with retail hours of 7:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 7:30 a.m. to 10:00 a.m. on Saturday. *Id.* One hundred fifty post office boxes are available. *Id.* The Postal Service will continue to use the New Boston name and ZIP Code. *Id.* at 4, Concern No. 14.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioners oppose the closure of the New Boston post office. Petitioners contend that the Postal Service failed to consider the effect of the closing on the community and on postal services. See Krengle Petition; O'Hearn Petition. Petitioner Krengle contends that the closure will be a hardship on businesses and have a negative impact on the New Boston community. See Krengle Petition; Krengle Participant Statement at 1-2. Petitioner Krengle further contends that the window transaction survey was not conducted properly, as it was attempted after services were suspended. Krengle Participant Statement at 2. Petitioner Krengle also questions why another building option for the post office was not considered once lease negotiations for the previous location failed. *Id.* Petitioner O'Hearn likewise contends that the closure will have a negative impact on the community and that having mailboxes exposed to the outdoor elements will be inconvenient. See O'Hearn Petition; O'Hearn Participant Statement at 2. Petitioner O'Hearn also argues that the Postal Service provided insufficient notice regarding the New Boston post office closure in giving only three days notice before the closure occurred. O'Hearn Participant Statement at 1.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the New Boston post office. Postal Service Comments at 2, 15. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the New Boston community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the New Boston post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the New Boston post office was based on several factors, including:

- the expiration of the lease and suspension;
- the postmaster vacancy;
- a minimal workload and declining revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the New Boston community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, effect on the New Boston community, economic savings, and effect on postal employees. *Id.* at 14-15.

Public Representative. The Public Representative, after careful review of the Final Determination, concluded that the Postal Service followed applicable procedures and that the decision to close the New Boston post office is supported by the evidence. PR Comments at 1. She notes that there is no evidence that the closure would impose hardship on New Boston individuals or businesses, and that the Postal Service will be able to provide effective and proper service from the Joy post office. *Id.* at 4-5. The Public Representative also explains that although the suspension made it impossible to perform a window transaction survey, the Postal Service was able to sufficiently evaluate the New Boston workload to support its decision. *Id.* at 7. She contends that the Postal Service inflated its expected savings, but states that sufficient evidence of economic savings exists. *Id.* at 7-8.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On April 15, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the New Boston post office. Final Determination at 2. A total of 701 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter of the Joy post office. *Id.* A total of 190 questionnaires were returned. *Id.*

On February 23, 2011, the Postal Service held a community meeting at the New Boston Community Center to address customer concerns. *Id.* Seventy-eight customers attended. Administrative Record, Item No. 24.

The Postal Service posted the proposal to close the New Boston post office with an invitation for comments at the Joy post office from June 3, 2011 through August 4, 2011. Final Determination at 2. The Final Determination was posted at the same post office from September 29, 2011 through October 31, 2011. Administrative Record, Item No. 49.

The Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. New Boston, Illinois is an incorporated community located in Mercer County, Illinois. Final Determination at 6; Administrative Record, Item No. 17. The community is administered politically by a Mayor and City Council. *Id.*; Administrative Record, Item No. 15. Police protection is provided by the Police Chief of New Boston. *Id.* Fire protection is provided by the City of New Boston. *Id.* The community is comprised of farmers, retirees and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the New Boston community and solicited input from the

community with questionnaires. In response to the Postal Service's proposal to close the New Boston post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-7.

Petitioners and others argue that the post office serves as a town gathering place and encourages business growth. See Krengle Petition; O'Hearn Petition; Thompson Letter at 1-2. The Postal Service contends that the closing will not leave residents without a place to meet as there are other locations in the community available for this and the centralized CBUs may also serve this purpose. Postal Service Comments at 11. The Postal Service further contends that growth of a community does not depend on the location of a post office. *Id.* The Postal Service also explains that the community identity will be preserved by continuing to use the New Boston name and ZIP Code in the new address. *Id.* at 12.

The concludes that Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the New Boston postmaster retired on November 30, 2009 and that an OIC has operated the New Boston post office since then. Final Determination at 7. The Final Determination states that the OIC may be separated from the Postal Service, but the record indicates that a career clerk has been reassigned to another vacant position. *Id.*; Administrative Record, Item No. 15; Postal Service Comments at 3. No other Postal Service employee will be adversely affected. Final Determination at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the New Boston post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to New Boston customers. Postal Service Comments at 6. It asserts that customers of the closed New Boston post office may obtain retail services at the Joy post office located seven miles away. Final

Determination at 2. Delivery service will be provided by rural route service through the Joy post office. *Id.* The New Boston post office box customers may obtain Post Office Box service at the Joy post office, which has 150 boxes available. *Id.*

For customers choosing not to travel to the Joy post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 8. The Postal Service also explains that concerns regarding the effect of cold weather on rural delivery carriers and the CBUs will be alleviated by safety and maintenance protocols, and that New Boston customers should expect the same high level of customer service from carriers and the Joy post office as they previously enjoyed. *Id.* at 7.

The Postal Service notes that, although it was unable to conduct a window transaction survey, it calculated a workload service credit by evaluating the incoming and dispatched mail that would have gone through the New Boston post office. *Id.* at 8. It also notes that because the New Boston post office did not have any permit holders or postage meter customers, bulk mail management was not an issue that it had to consider. *Id.* at 9.

The Commission finds that the Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$26,700. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$48,569) and annual lease costs (\$5,040) minus the cost of replacement service (\$26,909). *Id.* The Postal Service also states that it will incur a one-time moving expense of \$15,361. *Id.*

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The New Boston post office postmaster retired on November 30, 2009. *Id.* The post office was subsequently staffed by a career OIC who has accepted another vacant position with

the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the New Boston post office has been staffed by an OIC for approximately two years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Commission concludes that the Postal Service has reviewed the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

Based on a review of the Administrative Record, the Commission concludes that the Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the New Boston post office is affirmed.

It is ordered:

The Postal Service's determination to close the New Boston, Illinois post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

CONCURRING OPINION OF CHAIRMAN GOLDWAY

The New Boston, Illinois post office was suspended and *de facto* closed because of the inability to renegotiate the building lease. The suspension appears to have been a primary reason for the decision to close the post office. As the facility is now, in fact, closed, I do not think it worthwhile to call for a remand of the Postal Service's discontinuance decision.

However, the Postal Service knows in advance when leases are scheduled to expire and can allow adequate time for negotiations and a possible search for a new location. The Postal Service should not cause a community to lose its post office and lose access to convenient postal retail services merely because last minute lease renegotiations failed.

There are hundreds of post offices currently in suspension status, or recently removed from the post office rolls. The Postal Service has indicated it is making a good faith effort to clarify the record regarding suspensions. I hope no further suspensions result from problems with lease negotiations.

Ruth Y. Goldway